

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 01

THE ARC OF SOUTH NORFOLK

and

AMERICAN FEDERATION OF STATE, COUNTY &
MUNICIPAL EMPLOYEES, COUNCIL 93

Case No. 01-RC-213174

EMPLOYER'S MOTION FOR INVESTIGATION AND DISMISSAL OF PETITION

The Arc of South Norfolk ("The Arc") respectfully requests that the Regional Director conduct an investigation of the solicitation of the Petitioner's showing of interest by statutory supervisors and dismiss the Petition if the investigation reveals that The Arc's statutory supervisors solicited cards to support the Union's showing of interest.

"The Board has held that if a supervisor directly solicits authorization cards, those cards are tainted and may not be counted for the showing of interest." *Dejana Industries, Inc.*, 336 NLRB 1202 (2001). *See also National Gypsum Co.*, 215 NLRB 74 (1974) (dismissing petition based on Regional Director's investigation into supervisory solicitation of cards where the investigation revealed that two supervisors personally solicited and obtained signatures on a substantial number of the authorization cards submitted in support of the petition); *Southeastern Newspapers, Inc.*, 129 NLRB 311 (1960) (dismissing petition where an administrative investigation revealed that a supervisor obtained the signatures of employees whose cards were submitted for the showing of interest); *Toledo Stamping & Mfg. Co.*, 55 NLRB 865, 867 (1944) (petition dismissed when authorization cards secured with the assistance of a supervisor).

Here, Program Coordinators of The Arc, who the Board has held are statutory supervisors, *The Arc of South Norfolk*, 368 NLRB No. 32 (2019), unlawfully supported the circulation of the

Representation Petition and solicited union authorization cards to support the showing of interest in this case while believing they were protected by the Act. In fact, Program Coordinator Michelle Sola and Stefani Furlong solicited cards from Andy Smith and Bill Brooks, as well as possibly others. Other Program Coordinators also may have been involved in soliciting cards to support the Union's showing of interest. Given that the Program Coordinators' authorization cards cannot be counted toward the Union's showing of interest since the Board has ruled they are statutory supervisors and are excluded from the bargaining unit, and that other cards were solicited by statutory supervisors, there is a serious question as to the continued validity of the Union's showing of interest that must be investigated. The Arc believes that such an investigation will demonstrate that there is no sufficient showing of interest, and thus the Union's Petition must be dismissed.

Accordingly, The Arc respectfully requests the Regional Director to conduct an investigation into the solicitation of cards by statutory supervisors in support of the Union's showing of interest and dismiss the petition.

Respectfully submitted,

THE ARC OF SOUTH NORFOLK

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Dated: August 19, 2019

CERTIFICATE OF SERVICE

I, John E. Duke, hereby certify that, on August 19, 2019, I served a copy of the foregoing document on Joe DeLorey, Esq., General Counsel, AFSCME Council 93, and Erin L. DeRenzis, Esq., Assistant General Counsel, AFSCME Council 93, by e-mailing copies of the foregoing document to Joe DeLorey at jdelorey@afscme93.org and Erin DeRenzis at ederenzis@afscme93.org.

/s/ John E. Duke
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